

STATE OF MICHIGAN
IN THE SUPREME COURT

DONNA KROON-HARRIS,

Plaintiff-Appellee,

Supreme Court No. 129689

Court of Appeals
Docket No. 261146

vs.

Court of Claims No. 04-78-MK

STATE OF MICHIGAN,

Defendant-Appellant

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Suppl

**SUPPLEMENTAL BRIEF OF PLAINTIFF-APPELLEE
OPPOSING LEAVE TO APPEAL**

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I. Question Presented for Review

Does the Court of Claims have jurisdiction of a complaint for benefits under the State of Michigan' self-funded Long Term Disability and Income Protection Plan?

Plaintiff-Appellee says "Yes."

Defendant-Appellant says "No."

The Court of Claims said "No."

The Court of Appeals said "Yes."

II. Supplemental Statement of Facts

Participation in the State of Michigan's self-funded Long Term Disability and Income Protection Plan is available to certain State employees both within and outside of the classified civil service, including employees of the Michigan court system over whom the Civil Service Commission has no jurisdiction or authority. Historically, a Third Party Administrator [TPA] administered the Plan and made the final administrative decision to grant or deny benefits. The authority of the TPA has been diminished to the extent that Plaintiff-Appellee was denied benefits in a final administrative decision by the Director of the OSE.

On July 19, 2005, while this case was pending decision in the Court of Appeals, the Department of Civil Service promulgated its Regulation 5.18 assigning final administrative review of applications for benefits under the Plan to the Civil Service Commission. Prior to July 19, 2005, the Civil Service Commission had never asserted jurisdiction of disputes regarding the grant or denial of benefits under the Plan, and it has no authority with regard to employees outside of the classified civil service including employees of the Michigan court system.

III. Supplemental Argument

In *Farrell v Unemployment Compensation Commission*, 317 Mich. 676, 27 N.W.2d 135 (1947), this Court, recognized that the Court of Claims has jurisdiction "to hear and determine claims for unpaid compensation." Here, Plaintiff-Appellee claims a benefit from the State's Treasury, i.e., an benefit payable under the State's self-funded Plan. Although the opportunity to participate in the Plan is an emolument of employment that may be modified or withdrawn by the employer, the benefit that Plaintiff-Appellee seeks under the Plan is payment in lieu of wages. As in the case of unpaid wages, the Court of Claims has jurisdiction to hear and determine claims for unpaid compensation from the State's treasury in the form of a benefit from the State's self-funded Plan.

Dated: June 5, 2006

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